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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,010	12/16/2003	Eric Bischoff	692-4	5769
23869	7590	10/21/2004	EXAMINER	
HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791			BURNHAM, SARAH C	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/737,010

Applicant(s)

BISCHOFF, ERIC

Examiner

Sarah C. Burnham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☒ Claim(s) 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/16/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information referred to in the information disclosure statements filed on December 16, 2003 has been considered as to the merits.

### ***Claim Objections***

2. Claims 7-9, 13-14 and 26 objected to because of the following informalities:
  - It appears as if the word - on- - should be inserted between the words "disposed" and "one" in line 3 of claim 7.
  - It appears as if the word "guides" should be replaced with the word - - guide - - in line 1 of claim 8.
  - It appears as if the word - on- - should be inserted between the words "disposed" and "one" in line 3 of claim 13.
  - In line 4 of claim 20, it appears as if the word "thereform" should be replaced with the word - - therefrom - -.
  - It appears as if the word - on- - should be inserted between the words "disposed" and "one" in line 3 of claim 26.
  - In line 4 of claim 26 it appears as if the word "sat" should be replaced with the word - - seat - -.

Claims 8-9 and 14 are objected to as being dependent upon an objected base claim. Appropriate correction is requested.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 6 of claim 1, Applicant recites the phrase "one of said pair of legs". This phrase is misleading because it appears as if there is more than one pair of legs. Does applicant mean one leg of said pair of legs? Clarification is requested.

In line 3 of claim 5, Applicant recites "said first pair of spaced legs being connected to said first pair of legs". Does Applicant mean that said first pair of spaced legs is connected to said second pair of legs? Clarification is requested.

In line 7 of claim 11, Applicant recites the phrase "one of said first pair of legs". This phrase is misleading because it appears as if there is more than one first pair of legs. Does applicant mean one leg of said first pair of legs? Clarification is requested.

In line 2 of claim 12, Applicant recites the phrase "the other of said first pair of legs". This phrase is misleading because it appears as if there is more than one first pair of legs. Does applicant mean the other leg of said first pair of legs? Clarification is requested.

The following words/phrases lack sufficient antecedent basis:

- the motion (claim 1, lines 8-9; claim 11, line 10)

- said back support (claim 10, line 1)
- said back member (claim 10, line 2)
- the movement (claim 10, lines 3-4)

Claims 2-4, 6-9 and 13-22 are rejected as being dependent on a rejected base claim.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4, 7-17, 19, 23-25 are rejected as best understood with the above cited indefiniteness under 35 U.S.C. 102(b) as being anticipated by Bischoff (6,237,889). Bischoff discloses a seat suspension assembly (10) comprising a base (16)(18) including a first pair of spaced legs (32)(32) fixed to a support structure (40) (column 5, lines 11-12), said first pair of spaced legs (32)(32) connected to a back member (36)(36); a seat frame (46)(42)(44)(45)(20)(28)(58) is adapted to support a seating surface (12) and is disposed between said first pair of spaced legs (32)(32) of said base (16)(18), said seat frame being movably connected to said base (16)(18) at pivot point (45), said seat frame including a first guide (45) engageable with said one of said pair of legs (32)(32), said first guide permitting controlled movement of said seat frame relative

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to said base (16)(18); and a suspension (24)(26) extending between said seat frame and said base (16)(18).

With respect to claim 2, said suspension assembly (24)(26) includes a biasing device (24).

With respect to claim 3, said suspension assembly (24)(26) includes a dampening device (26).

With respect to claim 4, said base (16)(18) includes a cross bar (38) and said seat frame (46)(42)(44)(45)(20)(28)(58) includes a back support (58), said suspension (24)(26) extends between said base cross bar (38) and said seat frame back support (58).

With respect to claim 7, said seat frame includes a back support (58) having a pair of bottom rails (48)(48) extending outwardly therefrom, each of said bottom rails (48) having a distal end (unlabeled) and said first guide (45) being disposed on the distal end of the bottom rail (48) and a second guide (45) being disposed on the distal end of the other arm (48).

With respect to claim 8, said first guides (45) movably engage one of said first legs (32) and second guide (45) movably engage said other of said first legs (32).

With respect to claim 9, said first and second guides (45) include a roller in the form of a bolt that roles in the pivot points defined in the legs (32).

With respect to claim 10, said back support (34)(36)(36) includes a post (36) extending upwardly therefrom and said back member (64) has an aperture (unlabeled)

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formed therein, said post (36) being slidably disposed with said aperture for providing guided support for the movement of said seat frame relative to said base.

With respect to claim 11, a seat suspension assembly (10) comprises: a base (16)(18) including a first pair of spaced legs (32)(32) adapted to be securable to a support structure (40), said first pair of legs (32) being connected to a back member (36)(36)(34), said back member defining an opening; a seat frame (46)(42)(44)(45)(20)(28)(58) adapted to support a seat surface (12) and disposed between said first pair of spaced legs (32)(32), said seat frame being movably connected to said base (16)(18) at pivot points (45), said seat frame including a first guide (45) engageable with one of said first pair of legs (32)(32), said first guide permitting controlled movement of said seat frame relative to said base (16)(18); and a suspension (24)(26) substantially disposed within said opening defined by said back member (34)(36)(36) and extending between said seat frame and said base (16)(18) for regulating the motion of said seat frame relative to said base (16)(18).

With respect to claim 12, said seat frame includes a second guide (45), given that the seat is symmetrical, engageable with the other of said first pair of legs (32).

With respect to claim 13, the seat frame (46)(42)(44)(45)(20)(28)(58) includes a back support (58) having a pair of bottom rails (48) each of said bottom rails (48) having a distal end (unlabeled) and said first guide (45) being disposed on the distal end of the bottom rail (48) and a second guide (45) being disposed on the distal end of the other arm (48).

With respect to claim 14, said first guides (45) movably engages one of said first legs (32).

With respect to claim 15, said back member (34)(36)(36) includes a cross bar (38) and said frame back support (58) includes an upper portion (52), said suspension (24)(26) extends between and is pivotally secured to said cross bar (38) and said back support upper portion (52) such that said suspension (24)(26) is disposed behind said seat frame (46)(42)(44)(45)(20)(28)(58).

With respect to claim 16, said suspension assembly (24)(26) includes a biasing device (24).

With respect to claim 17, said suspension assembly (24)(26) includes a dampening device (26).

With respect to claim 19, said frame back support (58) is slidably connected to said base back member (34)(36)(36) by way of dampening means (26).

With respect to claim 23, Bischoff discloses a seat suspension assembly (10) securable to a support structure (40) comprising a base (16)(18) securable to the support structure (40), said base (16)(18) including a back member (34)(36)(36) and a pair of spaced side rails (32) extending outwardly from said back member (34)(36)(36), said back member (34)(36)(36) and said pair of side rails (32)(32) forming an open space; a seat surface (12); a seat frame (46)(42)(44)(45)(20)(28)(58) adapted to support said seating surface (12) and generally disposed in said open space, said seat frame being movably connected in a guided manner to said base, said seat frame including a back support (58) and a pair of spaced arms (48), said back support (58)



and said spaced arms (48) forming an opening, wherein an area below said seating (12) is generally unobstructed providing unencumbered access to the support structure (40); and a suspension (24)(26) extending between said seat frame back support (58) and said base (16)(18) for regulating the motion of said seat frame relative to said base, said suspension being disposed outside of said opening created by said seat frame.

With respect to claim 24, said seating surface (12) is pivotally secured to said frame at the pivot point shown at the forward most end of arm (42) and is selectively rotatable to between an generally horizontal position and a vertical position.

With respect to claim 25, said suspension (24)(26) includes a biasing device (24) and a dampening device (26).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 18 is rejected as best understood with the above cited indefiniteness under 35 U.S.C. 103(a) as being unpatentable over Bischoff (6,237,889) in view of Mardikian (5,309,861). As disclosed above, Bischoff reveals all claimed elements with the exception of a biasing member disposed about and concentrically aligned with a dampening member.

Mardikian discloses a biasing member (50) disposed about and concentrically aligned with a dampening member (46)(48) for use beneath a seat (24).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use the suspension device taught by Mardikian in place of the suspension device (24)(26) disclosed by Bischoff. The suspension device disclosed by Mardikian is more compact which would allow for even easier access to the support structure located below the seat.

#### ***Allowable Subject Matter***

9. Claims 4-5 and 20-22 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

10. Claim 26 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***


11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Galloway (6,158,810); Hogan (3,985,388); Drabert at al. (4,362,335); Sharon (5,273,240).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah C. Burnham whose telephone number is 703-305-7315. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SCB  
October 18, 2004

  
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